

# Indiana Public Defender Commission Meeting Minutes

December 14, 2006

Chairman Norman Lefstein called the meeting to order at 2:05 p.m. Commission members attending were: Susan Carpenter, Les Duvall, Bettye Lou Jerrel, Rep. Ralph Foley, Sen. Timothy Lanane and Hon. Daniel Donahue (by telephone conferencing). Also attending was Larry Landis of the Indiana Public Defender Council, and Deborah Neal, Assistant Staff Counsel for the Commission. Members not attending were Monica Foster, Sen. Joseph Zakas and Rep. Bob Kuzman.

Other interested parties in attendance were David Happe, Madison County Public Defender Administrator; David Cook, Marion County Chief Public Defender; Steve Owens, Vanderburgh County Chief Public Defender; Gretchen Etling, Vigo County Chief Public Defender; and Leann Taflinger of the Vigo County Public Defender office.

Chairman Lefstein opened the meeting by having the interested parties introduce themselves. He then reported that Mike Murphy, staff counsel, is taking a different position within the Division of State Court Administration, and that after the first of the year the Commission will likely be in a position to seek a full-time replacement for Mr. Murphy's position.

1. **Meeting Minutes:** Chairman Lefstein presented minutes from the October 5, 2006 Public Defender Commission meeting for approval. Ralph Foley moved for approval and Susan Carpenter seconded the motion. The vote by attending members was unanimously in favor of approval. Judge Donohue voted for approval by telephone. Commission minutes of October 5, 2006 were accepted as written.

2. **Proposed Task Force Studying Indigent Defense in Indiana:** Chairman Lefstein said that Chief Justice Shepard has agreed to organize a task force to study indigent defense in Indiana. The Chief justice has asked the Public Defender Commission to propose a list of persons for possible appointment to this task force. Further discussion of this matter was tabled until later in the meeting.

3. **Financial Status of Public Defense Fund:** After the first of the year, the Public Defense Fund will have received two disbursements from the State, for a total of \$5,000,000. At that time, the claims approved at this meeting will be paid. Today's claims include capital claims, 2<sup>nd</sup> quarter non-capital deferred claims, and 3<sup>rd</sup> quarter claims, totaling \$3,288,885.50. It is projected that by the meeting in April 2007, the Fund will have a balance of approximately \$1.7 million.

4. **Claims for 50% Reimbursement in Capital Cases:** The Commission addressed claims for 50% reimbursement in capital cases as follows:

## INDIANA PUBLIC DEFENDER COMMISSION

Reimbursement Requests in Capital Cases			
December 14, 2006			
COUNTY	DEFENDANT		TOTAL
Clark	Melcher		\$5,415.58
Lake	Aki-Khuam (Williams)		\$26,930.23
	Britt		\$26,424.65
Marion	Allen		\$8,886.42
	Allen 2		\$17,560.24
	Holland	*	
	Turner		\$11,957.42
	Turner 2		\$9,054.80
	Voss		\$2,500.23
Pike	Harbison		\$468.00
	Harbison 2		\$17.50
	Harbison 3		\$2,577.60
Spencer	Ward		\$8,127.40
Tippecanoe	Gauvin		\$11,628.91
Vigo	Walker		\$2,745.65
<b>TOTAL</b>			<b>\$134,294.63</b>
*Marion County submitted claim in <i>St. v. Holland</i> for \$503.29 - 12 days past the 120 day deadline.			

Deborah Neal explained the Marion County claim in *State v. Holland* was not timely filed. Marion County was given notice and opportunity to respond to the Commission regarding the reasons for the late filing. Marion County responded that the claim had been mailed timely in September. After determining the exact date of mailing by the postmark on the envelope, Marion County conceded the claim was filed late. Bettye Lou Jerrel moved that the Commission not pay the Marion County claim in *State v. Holland*. Senator Lanane seconded the motion. The motion passed unanimously.

Chairman Lefstein inquired as to transcript costs in capital cases and how the staff insures that this is a defense expense. Deborah Neal explained that the presiding court's chronological case summary of all events and filings in the death penalty case is submitted with the county's request for reimbursement. It can be perused for evidence of who ordered the transcript. If it cannot be ascertained through the chronological case summary that the defense requested the transcript, commission staff contacts the attorney handling the case for confirmation.

Ralph Foley moved to approve all other capital request for reimbursement (except *Holland*), and Bettye Lou Jerrel seconded the motion. The motion passed unanimously.

5. **Reconsideration of 2<sup>nd</sup> Quarter Reimbursement in Non-Capital Claims:** The Commission discussed the five counties whose reimbursement requests for the 2<sup>nd</sup> quarter were deferred until this meeting. A list of those counties and claims is below:

<b>INDIANA PUBLIC DEFENDER COMMISSION</b>						
Second Quarter (April 1, 2006 – June 20, 2006) Requests for Reimbursement in Non-Capital Cases						
<b>Deferred to 12/14/06</b>						
<b>County</b>	<b>Period Covered</b>	<b>Total Expenditures</b>	<b>Adjustment</b>	<b>Eligible Expenditures</b>	<b>25.3% Prorated</b>	<b>Adjustment %</b>
<b>Allen</b>	<b>4/01/06-6/30/06</b>	\$623,499.54	\$21,179.10	\$602,320.44	\$152,387.07	3%
<b>Clark</b>	<b>4/01/06-6/30/06</b>	\$109,179.40	\$ 8,156.23	\$101,023.17	\$ 25,558.86	7%
<b>Floyd</b>	<b>4/01/06-6/30/06</b>	\$105,479.98	\$ 17,970.89	\$ 87,509.09	\$ 22,139.80	17%
<b>Miami</b>	<b>4/01/06-6/30/06</b>	\$ 74,808.62	\$ 5,236.60	\$ 69,572.02	\$ 17,601.72	7%
<b>Steuben</b>	<b>4/01/06-6/30/06</b>	\$ 61,938.55	\$ 16,834.23	\$ 45,104.32	\$ 11,411.39	27%
<b>Total</b>		\$974,906.09	\$ 69,377.05	\$905,529.04	\$229,098.84	

Deborah Neal explained each deferred claim. Allen County's claims were deferred in October 2006 because the 3% self-adjusted amount submitted did not seem fair and reasonable. Ms. Neal reported that she contacted Allen County for an explanation of all their non-reimbursable expenses. The Allen County Public Defender office has two attorneys who handle only misdemeanor cases. The misdemeanor attorneys' salaries for the 2<sup>nd</sup> quarter were excluded as non-reimbursable expenses. Additionally, a portion of the salaries and benefits of Allen County Public Defender Agency's supervisors, staff and investigators, based on the number of hours worked related to misdemeanors in the quarter, were excluded as non-reimbursable expenses. Ms. Neal reported that she found Allen County's figure for non-reimbursable expenses to be credible, and believes the 2<sup>nd</sup> quarter claims should be paid. Chairman Lefstein reported his conversation with Charles Leonard, Chief Public Defender of Allen County, wherein Mr. Leonard explained that Chins and TPR cases are not paid from the public defense fund; therefore, expenses for these cases were not reported to the Commission. This is one of the reasons why Allen County's non-reimbursable expense percentage is low.

Ms. Neal reported she spoke with Jeff Stonebraker, Clark County Chief Public Defender, about their 2<sup>nd</sup> quarter request that was deferred. Mr. Stonebraker explained that the misdemeanor attorney is not paid out of the agency's public defense budget, but that the check for the attorney passes through his office. Stonebraker said he would include the income for this attorney in the agency's expenses, and then exclude it as a non-reimbursable. All other public defense attorneys in Clark County reported only three non-reimbursable cases in the 2<sup>nd</sup> quarter. Stonebraker created a formula based on the FTE percentages of attorneys handling these non-reimbursable cases. This gave him a weighted measure of the time spent on the cases. In determining the amount of supervisor, administrative and investigative staff time attributable to the non-reimbursable cases, a formula based on FTE percentage of all attorneys, minus the FTE percentage for non-reimbursable cases, resulted in a weighted measure of staff time and office overhead expenses spent on non-reimbursable cases. Ms. Neal reported Clark County's 2<sup>nd</sup> quarter report appears to be fair and reasonable and she recommends that the request be paid.

Floyd County submitted a new report for the 2<sup>nd</sup> quarter. The first report had no amount for non-reimbursable expenses. After discussions, Floyd County's amended 2<sup>nd</sup> quarter report was revised with a 17% adjustment for non-reimbursable expenses. It was recommended that the 2<sup>nd</sup> quarter amended request for reimbursement from Floyd County be paid.

Miami County's 2<sup>nd</sup> quarter adjustment was improperly reported at the October 5, 2006 meeting. The list of requests for reimbursement showed Miami County as having zero non-reimbursable expenses. However, upon review of their 2<sup>nd</sup> quarter submission, Ms. Neal discovered that they actually had \$5,000 in non-reimbursable expenses for a 7% adjustment. Ms. Neal concluded that the adjustment was fair and reasonable and recommended the payment of the 2<sup>nd</sup> quarter request for reimbursement to Miami County. Ms. Neal was also informed by Brian Michaud, Miami County Chief Public Defender, that the county does not believe it is cost effective to stay in the program and they are, therefore, not submitting a 3<sup>rd</sup> quarter report. Chairman Lefstein stated it would be helpful to visit the county and see if we can come to some better understanding of the problem. Judge Donohue stated he thought Judge Burke of Miami County would appreciate that effort.

Steuben County did not submit a request for reimbursement for the 2<sup>nd</sup> quarter. Mike Murphy, therefore, visited Steuben County to help them with their reporting. Steuben County then submitted a 2<sup>nd</sup> quarter request for reimbursement, with 27% non-reimbursable expenses. Ms. Neal recommended Steuben County be reimbursed for the 2<sup>nd</sup> quarter expenses.

Susan Carpenter moved that the Commission pay the 2<sup>nd</sup> quarter requests for reimbursement for the five counties, and Senator Lanane seconded the motion. The motion was passed. Judge Donohue abstained from voting on Clark County.

6. **Claims for 40% Reimbursement in Non-Capital Cases:** Before claims were reviewed, Chairman Lefstein noted that several counties were out of compliance with Commission caseload standards. He stated there is real concern regarding non-compliance, because for the first time we are getting data on which we can rely to determine caseloads. The Commission needs to discuss giving notice to the counties whose attorneys are out of compliance. Chairman Lefstein read the portion of Indiana statute that addresses this matter, "unless the county public defender board corrects the deficiencies to comply with the standards not more than 90 days after the date of the notice, the county's eligibility for reimbursement from the Public Defense Fund terminates at the close of that fiscal year." He noted that out-of-compliance counties could not be terminated from the Fund, until given notice and time to respond.

### **Madison County**

Chairman Lefstein next decided to hear from interested parties attending this meeting. David Happe of Madison County was invited to speak first. He stated that he had just been appointed to the position of administrator of the public defender program in Madison County, and was not sure which issues were on the table about Madison County. Deborah Neal noted that Mike Murphy had written to Madison County because they were close to being substantially out of compliance. Chairman Lefstein recommended that Madison County work with Debby Neal and present a plan for getting into compliance. Susan Carpenter asked if the letter sent to Madison County by Mike Murphy constituted formal notice of possible termination of reimbursements. Sen. Lanane stated this is a very serious step and that any notice needs to be clear and unequivocal about the ramifications of non-compliance with the standards. Chairman Lefstein noted that the Commission has threatened counties, but never tried a formal notice in accordance with the Indiana statute. Chairman Lefstein told Mr. Happe there was nothing more the Commission was planning to do today regarding Madison County's compliance issues, and thanked him for coming.

### **Vanderburgh County**

Steve Owens, Vanderburgh Chief Public Defender, was invited to discuss Vanderburgh County's recent letter to the Commission concerning compliance. Mr. Owens outlined a plan that would involve hiring more attorneys and staff to be in full compliance with Commission standards by 2009. Steve Owen said that until a year ago, they did not report juvenile delinquency caseload numbers, mistakenly believing they were not required to do so. He said the county knows it needs to bring juvenile caseloads into compliance; however, the 2007 budget is already set. There were three different proposals offered to the Vanderburgh county councilmen to provide funds for more attorneys to handle juvenile cases. It was determined that due to the large number of indigent appointments in juvenile court, it would be May 2009 before this area was fully complying. Chairman Lefstein stated there is concern regarding the length of time suggested by Vanderburgh County to come into compliance with their juvenile cases.

Mr. Owen asked if the Commission was concerned with caseload numbers for non-reimbursable cases. Chairman Lefstein responded that the Commission had never decided to terminate county reimbursements when those numbers were out of compliance with standards. However, the Commission does review caseloads where attorneys have a mixed caseload.

Judge Donohue asked if Vanderburgh County had started implementing its hiring program. Mr. Owens stated that if the Commission approves Vanderburgh's plan, and the county agrees to the funding, the program would start April 1, 2007.

Bettye Lou Jerrel asked if the Commission was going to discuss public defenders' private caseloads. Chairman Lefstein stated that we have no way to retrieve that kind of information. The lawyers themselves have an ethical duty not to accept more cases than what they can handle. Susan Carpenter pointed out the problem in Grant County where contract attorneys, upon reaching their contract limit of cases, become assigned counsel taking more indigent defense cases. Lefstein noted the difficulty is in monitoring public and private caseloads. Senator Lanane asked if a statewide program with full-time defenders would be a better system. Chairman Lefstein noted that states have statewide programs, and they are usually more consistent in their overall approach than Indiana.

Chairman Lefstein directed the Commission back to the problem of Vanderburgh County and suggested that a formal notice letter regarding lack of compliance needed to be sent to the county. He noted, however, that what Mr. Owens proposed in his letter would likely address the county's compliance issues in a satisfactory way.

### **Vigo County**

Gretchen Etling, Vigo County Chief Public Defender, explained that Vigo County public defense attorneys' maximum caseload figures are 80% of a full-time public defense attorney's caseload, as outlined in Standard J, of the Commission's Standards for Indigent Defense Service in Non-Capital Cases. (It is specifically written into the Vigo County Comprehensive Plan that the attorneys' maximum is .8, not 1.0). Ms Etling informed the Commission that when Vigo County started their recent reporting on the Commission's authorized forms (caseload worksheets for full-time attorneys with inadequate staff versus part-time attorneys with inadequate staff), it became clear that several Vigo County public defenders were out of compliance. She stated that her visit was also preemptive, and she was informing the Commission that the same compliance issue would exist in the next quarter. Vigo County's budget for 2007 is already fixed, which makes it difficult now to hire more attorneys to handle the excess cases. Ms. Etling reported that a new attorney was hired to begin in January 2007, but that three more attorneys would be needed to solve the compliance issue. She would appreciate a

formal notice letter from the Commission concerning the compliance issue to encourage the Vigo County Council to create a solution to the problem.

### **Marion County**

Dave Cook, Marion County Chief Public Defender, addressed non-compliance issues within the agency. He reminded the Commission that when the forms for reporting cases were revised, and the maximum full-time caseload for Class D felonies was clarified to be 200 (instead of 350 cases between two combined categories), it was then that Marion County's Class D felony public defenders became substantially out of compliance with the Commission's Standards. Mr. Cook also brought to the attention of the Commission that several attorneys noted by commission staff to be out of compliance, were not "substantially" out of compliance according to him. Mr. Cook feels that an attorney whose FTE number is 1.1 or less is not "substantially" out of compliance. With that being said, Mr. Cook reported on his discussions with the Marion County Council. He told the council he would need 14 full-time new attorneys for the Class D felony courts, but the agency received only seven. He also asked for five new CHINS/TPR attorneys, but received none. However, in the fall of 2006, the Marion County Council provided funds for additional public defender personnel due to a rise in homicides and violent crimes in Marion County. Mr. Cook reported they have hired five new major felony attorneys, anticipated hiring during 2007 nine more major felony attorneys and ten to eleven Class D felony attorneys. There also is money in the 2007 budget for the hiring of five full-time and 27 contract attorneys to handle CHINS/TPR cases. Dave Cook pointed out that in 1995 when the public defender agency was first formed in Marion County, it operated on a budget of less than \$5 million. Today the budget is \$18 million. He asked that the Commission recognize that Marion County has made substantial strides in the past towards providing quality defense services. Mr. Cook further stated that steps are being taken to bring the Marion County Public Defender Agency into compliance with Commission standards. Chairman Lefstein acknowledged the major strides Marion County has taken in its indigent defense program. He stated that a "notice" letter needs to be sent to Marion County so the Commission's position on its standards is clearly stated. Mr. Cook agreed that a letter would be useful in explaining to the council the budget needs of his agency.

Chairman Lefstein continued with the discussion of other counties that are out of compliance with caseload standards. He proposed to develop a letter to notify these counties of the Commission's concerns, and asked if there were any questions concerning sending such a letter. No opposition to a notice letter was expressed.

Chairman Lefstein asked if there were additional questions regarding requests for reimbursement in non-capital cases. No one offered further discussion, so Chairman Lefstein said he would entertain a motion to approve the requests for reimbursement totaling \$2, 925,497. Susan Carpenter moved to approve the 40% claims for reimbursement, and Senator Lanane seconded the motion. All members present voted in favor of the motion, and Judge Donohue, by telephone, voted to pay all claims, but abstained from a vote on Clark County. The motion was passed.

Non-capital claims for the 3<sup>rd</sup> quarter of 2006 are to be paid as follows:

<b>INDIANA PUBLIC DEFENDER COMMISSION</b>						
<b>Third Quarter (July 1, 2006 – September 30, 2006) Requests for Reimbursement in Non-Capital Cases</b>						
<b>12/14/2006</b>						
<b>COUNTY</b>	<b>PERIOD COVERED</b>	<b>TOTAL EXPENDITURE</b>	<b>ADJUSTMENT</b>	<b>ELIGIBLE EXPENDITURE</b>	<b>40% REIMBURSEMENT</b>	<b>%</b>
ADAMS	7/1/06-9/30/06	\$70,279.90	\$25,333.45	\$44,946.45	\$17,978.58	36%
ALLEN	7/1/06-9/30/06	\$736,602.35	\$28,937.77	\$707,664.58	\$283,065.83	4%

BENTON	7/1/06-9/30/06	\$9,933.75	\$1,625.52	\$8,308.23	\$3,323.29	16%
BLACKFORD	7/1/06-9/30/06	\$18,919.68	\$3,684.50	\$15,235.18	\$6,094.07	19%
CARROLL	7/1/06-9/30/06					
CLARK	7/1/06-9/30/06	\$110,616.28	\$15,005.25	\$95,611.03	\$38,244.41	14%
DECATUR	7/1/06-9/30/06	\$28,869.93	\$9,623.31	\$19,246.62	\$7,698.65	33%
FAYETTE	7/1/06-9/30/06	\$30,492.90	\$11,278.20	\$19,214.70	\$7,685.88	37%
FLOYD	7/1/06-9/30/06	\$123,358.75	\$28,928.63	\$94,430.12	\$37,772.05	23%
FOUNTAIN	7/1/06-9/30/06	\$20,034.97	\$7,978.53	\$12,056.44	\$4,822.58	40%
FULTON	7/1/06-9/30/06	\$54,067.10	\$17,563.20	\$36,503.90	\$14,601.56	32%
GRANT	7/1/06-9/30/06	\$147,774.37	\$14,823.84	\$132,950.53	\$53,180.21	10%
GREENE	7/1/06-9/30/06	\$64,049.21	\$12,438.44	\$51,610.77	\$20,644.31	19%
HANCOCK	7/1/06-9/30/06	\$104,492.61	\$30,467.36	\$74,025.25	\$29,610.10	29%
HENRY	7/1/06-9/30/06	\$103,411.80	\$13,674.01	\$89,737.79	\$35,895.12	13%
JASPER	7/1/06-9/30/06	\$37,730.36	\$16,897.65	\$20,832.71	\$8,333.08	45%
JAY	7/1/06-9/30/06	\$52,200.12	\$12,632.43	\$39,567.69	\$15,827.08	24%
JENNINGS	7/1/06-9/30/06	\$44,959.38	\$14,130.09	\$30,829.29	\$12,331.72	31%
KNOX	7/1/06-9/30/06	\$127,996.85	\$27,766.51	\$100,230.34	\$40,092.14	22%
KOSCIUSKO	7/1/06-9/30/06	\$151,151.98	\$51,051.33	\$100,100.65	\$40,040.26	34%
LAKE	7/1/06-9/30/06	\$811,063.18	\$5,834.99	\$805,228.19	\$322,091.28	1%
LAPORTE	7/1/06-9/30/06	\$123,092.10	\$30,174.33	\$92,917.77	\$37,167.11	25%
MADISON	7/1/06-9/30/06	\$392,326.43	\$28,321.19	\$364,005.24	\$145,602.10	7%
MARION	7/1/06-9/30/06	\$3,267,645.03	\$667,462.55	\$2,600,182.48	\$1,040,072.99	20%
MARTIN	7/1/06-9/30/06					
MIAMI	7/1/06-9/30/06					
MONROE	7/1/06-9/30/06	\$307,307.69	\$103,558.48	\$203,749.21	\$81,499.68	34%
MONTGOMERY	7/1/06-9/30/06	\$57,636.07	\$18,548.54	\$39,087.53	\$15,635.01	32%
NEWTON	7/1/06-9/30/06					
NOBLE	7/1/06-9/30/06	\$82,647.94	\$16,546.27	\$66,101.67	\$26,440.67	20%
OHIO	7/1/06-9/30/06	\$16,500.82	\$3,323.02	\$13,177.80	\$5,271.12	20%
ORANGE	7/1/06-9/30/06	\$41,699.46	\$10,796.04	\$30,903.42	\$12,361.37	26%
PARKE	7/1/06-9/30/06	\$27,781.83	\$7,129.85	\$20,651.98	\$8,260.79	26%
PERRY	7/1/06-9/30/06					
PIKE	7/1/06-9/30/06	\$67,503.25	\$28,428.34	\$39,074.91	\$15,629.96	42%
PULASKI	7/1/06-9/30/06	\$62,856.08	\$23,406.86	\$39,449.22	\$15,779.69	37%
RUSH	7/1/06-9/30/06	\$36,060.55	\$13,703.01	\$22,357.54	\$8,943.02	38%
SCOTT	7/1/06-9/30/06	\$50,364.61	\$13,640.42	\$36,724.19	\$14,689.68	27%
SHELBY	7/1/06-9/30/06	\$74,522.98	\$9,080.71	\$65,442.27	\$26,176.91	12%
SPENCER	7/1/06-9/30/06	\$32,187.78	\$3,367.00	\$28,820.78	\$11,528.31	10%
STEBEN	7/1/06-9/30/06	\$75,350.00	\$26,618.34	\$48,731.66	\$19,492.66	35%
SULLIVAN	7/1/06-9/30/06	\$19,446.90	\$5,755.70	\$13,691.20	\$5,476.48	30%
SWITZERLAND	7/1/06-9/30/06	\$38,776.93	\$12,925.64	\$25,851.29	\$10,340.52	33%
TIPPECANOE	7/1/06-9/30/06	\$433,577.51	\$139,259.71	\$294,317.80	\$117,727.12	32%
UNION	7/1/06-9/30/06					
VANDEBURGH	7/1/06-9/30/06	\$523,824.13	\$84,406.15	\$439,417.98	\$175,767.19	16%
VERMILLION	7/1/06-9/30/06	\$27,904.42	\$7,576.70	\$20,327.72	\$8,131.09	27%
VIGO	7/1/06-9/30/06	\$290,855.36	\$82,262.12	\$208,593.24	\$83,437.30	28%
WARREN	7/1/06-9/30/06	\$7,076.00	\$3,368.00	\$3,708.00	\$1,483.20	48%
WASHINGTON	7/1/06-9/30/06	\$87,239.93	\$24,839.15	\$62,400.78	\$24,960.31	28%
WELLS	7/1/06-9/30/06					
WHITE	7/1/06-9/30/06					
WHITLEY	7/1/06-9/30/06	\$43,012.67	\$7,286.30	\$35,726.37	\$14,290.55	17%
<b>TOTAL</b>		<b>\$9,035,201.94</b>	<b>\$1,721,459.43</b>	<b>\$7,313,742.51</b>	<b>\$2,925,497.03</b>	<b>19%</b>

## 7. Continued Discussion of Item 2, Proposed Task Force Studying Indigent Defense in Indiana:

Chairman Lefstein presented a memorandum to the Commission concerning the proposed membership of the Task Force to Study Indigent Defense in Indiana, to be sent to Chief Justice Shepard.

The proposal calls for the task force to be comprised of 15 persons, organized as follows:

- Two members appointed by the Chief Justice of Indiana
- Two members appointed by the Governor of Indiana
- One member appointed by the Indiana Senate President Pro Tem
- One member appointed by the Indiana Speaker of the House
- As a member, the Chair of the Indiana Public Defender Commission
- Two members of the Indiana Public Defender Commission appointed by the Commission
- State Public Defender
- Executive Director of the Indiana Public Defender Council
- Executive Director of the Indiana Prosecuting Attorneys Council
- One member appointed by the President, Indiana State Bar Association
- One member appointed by the President, Association of Indiana Counties
- One member appointed by the Chairman, Indiana Public Defender Council

Chairman Lefstein invited discussion of the proposal. Judge Donohue stated that he believed all the bases were covered. Chairman Lefstein explained that the Commission was only making recommendations to the Chief Justice about a way to organize the task force. Assuming Commission approval, a letter would be sent to the Chief Justice in December with these recommendations. Ralph Foley stated he thought more than 15 would be an unworkable group.

Chairman Lefstein said that he thought the Commission should be well represented on this task force because the Commission has a statutory duty to make recommendations about indigent defense in Indiana. He also stated that the Commission may have to provide some monies from the Public Defense Fund to support the task force. He believes the American Bar Association may also provide a contribution. He estimated that a statewide study would likely cost more than \$100,000. Bettye Lou Jerrel pointed out that the task force would need a member that understood the state legislature, and who can help with funding problems. She recommended that the task force educate the Commission fully about the findings of the study. Senator Lanane questioned whether there would be sufficient representation of people in the communities on this task force. Chairman Lefstein pointed out there would likely be public meetings and interviews in different parts of the state, thereby giving communities an opportunity to voice their concerns. After further discussion, Ralph Foley moved to recommend to the Chief Justice the memorandum's approach to organizing the statewide task force. Les Duval seconded the motion. The motion passed unanimously.

8. **St. Joseph County:** Chairman Lefstein noted the Commission has an issue that was not on the agenda. St. Joseph County council is forming a Public Defender Board but is proposing that the county judges appoint all members of the board, thus eliminating an appointment by the county executive as required by statute. The Commission concluded that a county public defender board should not be named solely by the judiciary. Bettye Lou Jerrel made a motion to that effect, and Susan Carpenter seconded the motion. The motion passed unanimously.

9. **Meeting Dates:** After much discussion, it was agreed that the 1<sup>st</sup> quarter meeting of the Public Defender Commission will be held on Wednesday, April 11, 2007 at 2:30 p.m., and the 2<sup>nd</sup> quarter meeting will be held on Wednesday, June 27, 2007 at 2:00 p.m. It was also announced that all other agenda matters are tabled until the next meeting.

The meeting adjourned at 5:16 p.m.



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Norman Lefstein, Chairman

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Date